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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
Against:

Case No. 2012-736

OAH No. 2012080362

12 **WILMA CHAVEZ POLVERARI**
13 **1477 Plumeria Drive**
14 **Santa Rosa, CA 95403**

FIRST AMENDED A C C U S A T I O N

15 **Registered Nurse License No. 512432**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about July 3, 1995, the Board of Registered Nursing issued Registered Nurse
24 License Number 512432 to Wilma Chavez Polverari (Respondent). Respondent's registered
25 nurse license was in full force and effect at all times relevant to the charges brought in this First
26 Amended Accusation and will expire on June 30, 2013, unless renewed.

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1 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
2 defined in Section 4022.

3 ...

4 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
5 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
6 section."

7 8. California Code of Regulations, title 16, section 1442 states:

8 "As used in Section 2761 of the code, "gross negligence" includes an extreme departure
9 from the standard of care which, under similar circumstances, would have ordinarily been
10 exercised by a competent registered nurse. Such an extreme departure means the repeated failure
11 to provide nursing care as required or failure to provide care or to exercise ordinary precaution in
12 a single situation which the nurse knew, or should have known, could have jeopardized the
13 client's health or life."

14 9. California Code of Regulations, title 16, section 1443 states:

15 "As used in Section 2761 of the code, "incompetence" means the lack of possession of or
16 the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
17 exercised by a competent registered nurse as described in Section 1443.5."

18 COST RECOVERY

19 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 DRUGS

24 11. Hydromorphone (brand name "Dilaudid") is used to relieve moderate to severe pain.
25 It is a Schedule II controlled substance as designated by Health and Safety Code section 11055,
26 subdivision (d)(1)(k), and a dangerous drug under Code section 4022.

27 12. Morphine Sulfate (brand name "MS Contin") is a highly addictive narcotic that acts
28 directly on the central nervous system to relieve pain. It is a Schedule II controlled substance as

1 designated by Health and Safety Code section 11055, subdivision (b)(1), and a dangerous drug
2 under Code section 4022.

3 13. Lorazepam (trade name "Ativan") is a psychotropic drug used for the management of
4 anxiety disorders. It is a Schedule IV controlled substance as designated by Health and Safety
5 Code section 11057, subdivision (d)(16), and a dangerous drug under Code section 4022.

6 14. Oxycodone with Acetaminophen (brand names "Percocet" or "Tylox") is used to treat
7 moderate to severe pain. It is a Schedule II controlled substance as designated by Health and
8 Safety Code section 11055, subdivision (b)(1), and a dangerous drug under Code section 4022.

9 15. Norco (generic name "Hydrocodone") is used to treat moderate to severe pain. It is a
10 Schedule III controlled substance as designated by Health and Safety Code section 11056,
11 subdivision (e), and a dangerous drug under Code section 4022.

12 16. Pyxis is a computerized management, storage, and medication dispensing
13 system/machine. It is a medication cart/unit containing all medications used throughout a
14 hospital. Each Pyxis is linked to the main computer maintained by the Hospital's Pharmacy
15 Department where all Pyxis information is stored. Medical staff is given access to the Pyxis via
16 an assigned password selected by each medical employee.

17 FIRST CAUSE FOR DISCIPLINE

18 (Grossly Incorrect and/or Grossly Inconsistent Entries in Patient Records)

19 17. Respondent has subjected her license to disciplinary action under section 2761,
20 subdivision (a) on the grounds of unprofessional conduct, as defined in section 2762, subdivision
21 (e), in that between on or about March 2009, through September 2009, while employed as a
22 registered nurse at Santa Rosa Memorial Hospital in Santa Rosa, California, Respondent made
23 grossly incorrect or grossly inconsistent entries in hospital and patient records pertaining to a
24 controlled substance and/or dangerous drug in the following respects:

25 A. Patient 1¹.

26 On or about March 23, 2009, at 8:28 a.m., Respondent withdrew from Pyxis two Norco 10

27
28 ¹ The patient names will be released to Respondent pursuant to a request for discovery.

1 milligram/325 milligram tablets for Patient 1. Respondent failed to chart or otherwise account for
2 the administration or wastage of the Norco.

3 B. Patient 2.

4 1. On or about March 29, 2009, at 11:09 a.m., Respondent withdrew from Pyxis two 1
5 milligram Lorazepam tablets for Patient 2. Respondent failed to chart or otherwise account for
6 the administration or wastage of the Lorazepam.

7 2. On or about March 30, 2009, at 2:39 p.m., Respondent withdrew from Pyxis one 2
8 milligram/1 milliliter vial of Lorazepam for Patient 2. Respondent failed to chart or otherwise
9 account for the administration or wastage of the Lorazepam.

10 3. On or about March 30, 2009, at 2:51 p.m., Respondent withdrew from Pyxis one 2
11 milligram/1 milliliter vial of Lorazepam for Patient 2, in excess of the physician's order.
12 Respondent charted the administration of 2 milligram of Lorazepam to Patient 2 at 2:54 p.m.

13 C. Patient 3.

14 1. On or about April 2, 2009, at 8:39 a.m., Respondent withdrew from Pyxis one 10/325
15 milligram Norco tablet for Patient 3. Respondent failed to chart or otherwise account for the
16 administration or wastage of the Norco.

17 2. On or about April 2, 2009, at 8:55 a.m., Respondent withdrew from Pyxis two 10/325
18 milligram Norco tablets for Patient 3, in excess of the physician's order. Respondent charted the
19 administration of two tablets of Norco to Patient 3 at 8:54 a.m. Respondent charted that the
20 Norco was administered to Patient 3 before the Norco was withdrawn from Pyxis.

21 D. Patient 4.

22 1. On or about April 7, 2009, at 8:57 a.m., Respondent withdrew from Pyxis two 10/325
23 milligram Percocet tablets for Patient 4. Respondent failed to chart or otherwise account for the
24 administration or wastage of the Percocet.

25 E. Patient 5.

26 1. On or about April 29, 2009, at 2:59 p.m., Respondent withdrew from Pyxis one
27 10/325 milligram Norco tablet from the Pyxis for Patient 5. Respondent failed to chart or
28 otherwise account for the administration or wastage of the Norco.

2. On or about April 29, 2009, at 3:08 p.m., Respondent withdrew from Pyxis two 10/325 milligram Norco tablets for Patient 5, in excess of the physician's order. Respondent charted the administration of two Norco tablets to Patient 5 at 3:07 p.m. Respondent charted that the Norco was administered to Patient 5, before the Norco was withdrawn from Pyxis.

F. Patient 6.

1. On or about May 4, 2009, at 9:36 a.m., Respondent withdrew from Pyxis two 10/325 milligram Norco tablets for Patient 6. Respondent failed to chart or otherwise account for the administration or wastage of the Norco.

G. Patient 7.

1. On or about May 9, 2009, at 9:26 a.m., Respondent withdrew from Pyxis one 10/325 milligram Norco tablet for Patient 7. Respondent failed to chart or otherwise account for the administration or wastage of the Norco.

2. On or about May 9, 2009, at approximately 9:38 a.m., Respondent withdrew from Pyxis two 10/325 milligram Norco tablets for Patient 7, in excess of the physician's order. Respondent charted the administration of two Norco tablets to Patient 6 at 9:48 a.m.

H. Patient 8.

1. On or about May 9, 2009, at 8:34 a.m., Respondent withdrew from Pyxis two 10/325 milligram Norco tablets for Patient 8. Respondent charted that "none" of the Norco was administered to Patient 8. Respondent failed to chart or otherwise account for the wastage of the Norco.

I. Patient 9.

1. On or about May 11, 2009, at 9:38 a.m., Respondent withdrew from Pyxis one 2 milligram Hydromorphone tablet for Patient 9. Respondent failed to chart or otherwise account for the administration or wastage of the Hydromorphone.

J. Patient 11.

1. On or about June 16, 2009, at 9:08 a.m., Respondent withdrew from Pyxis one 10/325 milligram Norco tablet for Patient 11. Respondent failed to chart or otherwise account for the administration or wastage of the Norco.

1 K. Patient 12.

2 1. On or about June 20, 2009, at 9:08 a.m., Respondent withdrew from Pyxis two
3 10/325 milligram Norco tablets for Patient 12. Respondent failed to chart or otherwise account
4 for the administration or wastage of the Norco.

5 L. Patient 13.

6 1. On or about June 29, 2009, at 1:40 p.m., Respondent withdrew from Pyxis one 2
7 milligram 1 milliliter vial of Dilaudid for Patient 13. Respondent failed to chart or otherwise
8 account for the administration or wastage of the Dilaudid.

9 2. On or about June 29, 2009, at 1:43 p.m., Respondent withdrew from Pyxis one 2
10 milligram 1 milliliter vial of Dilaudid for Patient 13, in excess of physician's orders. Respondent
11 charted the administration of the Dilaudid to Patient 13 at 1:45 p.m.

12 M. Patient 14.

13 1. On or about July 1, 2009, at 12:41 p.m., Respondent withdrew from Pyxis one 10
14 milligram vial of Morphine for Patient 14. Respondent charted the wastage of 7 milligram of
15 Morphine at 12:46 p.m. Respondent failed to chart or otherwise account for the administration or
16 wastage of the remaining 3 milligrams of Morphine.

17 N. Patient 17.

18 1. On or about July 18, 2009, at 8:30 a.m., Respondent withdrew from Pyxis one 10/325
19 milligram Norco tablet for Patient 17. Respondent failed to chart or otherwise account for the
20 administration or wastage of the Norco.

21 2. On or about July 18, 2009, at 8:43 a.m., Respondent withdrew from Pyxis two 10/325
22 milligram Norco tablets for Patient 17. Respondent charted the administration of two tablets of
23 Norco to Patient 17 at 8:42 a.m. Respondent charted that the Norco was administered to Patient
24 17, before
25 the Norco was withdrawn from Pyxis. The administration of the Norco was in excess of the
26 physician's order.

27 3. On or about July 18, 2009, at 1:37 p.m., Respondent withdrew from Pyxis two 10/325
28 milligram Norco tablets for Patient 17. Respondent charted the administration of one tablet of

1 Norco to Patient 17 at 1:36 p.m. Respondent charted that the Norco was administered before it
2 was withdrawn from Pyxis. Respondent failed to chart or otherwise account for the
3 administration or wastage of the remaining tablet of the Norco.

4 4. On July 19, 2009, at 9:18 a.m., Respondent withdrew from Pyxis two 10/325
5 milligram Norco tablets for Patient 17. Respondent failed to chart or otherwise account for the
6 administration or wastage of the Norco.

7 O. Patient 18.

8 1. On or about July 19, 2009, at 8:02 a.m., Respondent withdrew from Pyxis two 10/325
9 milligram Norco tablets for Patient 18. Respondent failed to chart or otherwise account for the
10 administration or wastage of the Norco.

11 P. Patient 19.

12 1. On or about July 23, 2009, at 8:22 a.m., Respondent withdrew from Pyxis one 10/325
13 milligram Norco tablet for Patient 19. Respondent failed to chart or otherwise account for the
14 administration or wastage of the Norco.

15 Q. Patient 20.

16 1. On or about July 23, 2009, at 8:59 a.m., Respondent withdrew from Pyxis two 5/325
17 milligram Percocet tablets for Patient 20. Respondent charted the administration of one tablet of
18 Percocet to Patient 20 at 9:06 a.m. Respondent failed to chart or otherwise account for the
19 administration or wastage of the remaining Percocet tablet.

20 R. Patient 22.

21 1. On or about July 27, 2009, at 9:01 a.m., Respondent withdrew from Pyxis two 5/325
22 milligram tablets of Percocet for Patient 22. Respondent failed to chart or otherwise account for
23 the administration or wastage of the Percocet.

24 2. On or about July 27, 2009, at 11:17 a.m., Respondent withdrew from Pyxis two 5/325
25 milligram tablets of Percocet for Patient 22, in excess of physician's orders. Respondent charted
26 the administration of one tablet of Percocet to Patient 22 at 11:18 a.m. Respondent failed to chart
27 or otherwise account for the administration or wastage of the remaining tablet of Percocet.

1 S. Patient 23.

2 1. On or about July 28, 2009, at 8:51 a.m., Respondent withdrew from Pyxis two 10/325
3 milligram tablets of Norco for Patient 23. Respondent charted the administration of one tablet of
4 Norco to Patient 23 at 9:00 a.m. Respondent failed to chart or otherwise account for the
5 administration or wastage of the remaining tablet of Norco.

6 T. Patient 24.

7 1. On or about July 28, 2009, at 9:45 a.m., Respondent withdrew from Pyxis two 10/325
8 milligram tablets of Norco for Patient 24. Respondent failed to chart or otherwise account for the
9 administration or wastage of the Norco.

10 U. Patient 25.

11 1. On or about July 29, 2009, at 8:11 a.m., Respondent withdrew from Pyxis two 10/325
12 milligram tablets of Percocet for Patient 25. Respondent failed to chart or otherwise account for
13 the administration or wastage of the Percocet.

14 2. On or about July 29, 2009, at 3:01 p.m., Respondent withdrew from Pyxis two 10/325
15 milligram tablets of Percocet for Patient 25. Respondent failed to chart or otherwise account for
16 the administration or wastage of the Percocet.

17 V. Patient 26.

18 1. On or about August 19, 2009, at 1:49 p.m., Respondent withdrew from Pyxis two
19 10/325 milligram tablets of Norco for Patient 26. Respondent failed to chart or otherwise account
20 for the administration or wastage of the Norco.

21 W. Patient 27.

22 1. On or about August 19, 2009, at 1:47 p.m., Respondent charted the administration of
23 two 10/325 milligram tablets of Norco to Patient 27. There is no record that Respondent removed
24 the Norco tablets from Pyxis.

25 X. Patient 28.

26 1. On or about August 26, 2009, at 2:03 p.m., Respondent withdrew from Pyxis one
27 10/325 milligram tablets of Norco for Patient 28. Respondent failed to chart or otherwise account
28 for the administration or wastage of the Norco.

2. On or about August 26, 2009, at 2:08 p.m., Respondent withdrew from Pyxis one 10/325 milligram tablet of Percocet for Patient 28, in excess of physician's orders. Respondent charted the administration of the Percocet to Patient 28.

Y. Patient 29.

1. On August 29, 2009, at 10:46 a.m., Respondent withdrew from Pyxis two 10/325 milligram tablets of Norco for Patient 29. Respondent charted the administration of one Norco tablet to Patient 29 at 10:44 a.m. Respondent charted that the Norco was administered to Patient 29 before the Norco was withdrawn from Pyxis. Respondent failed to chart or otherwise account for the administration or wastage of the remaining tablet of Norco.

Z. Patient 30.

1. On September 4, 2009, at 9:03 a.m., Respondent withdrew from Pyxis two 10/325 milligram tablets of Percocet for Patient 30. Respondent charted that one Percocet tablet was administered to Patient 30 at 9:10 a.m. Respondent failed to chart or otherwise account for the administration or wastage of the remaining tablet of Percocet.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Gross Negligence)

18. Respondent has subjected her license to disciplinary action under section 2761, subdivision (a)(1) on the grounds of gross negligence based on the acts and/or omissions set forth in paragraph 17 and each of its subparts, above.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Incompetence)

19. Respondent has subjected her license to disciplinary action under section 2761, subdivision (a)(1) on the grounds of incompetence based on the acts and/or omissions set forth in paragraph 17 and each of its subparts, above.

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1 PRAYER

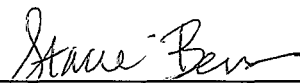
2 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
3 First Amended Accusation, and that following the hearing, the Board of Registered Nursing issue
4 a decision:

5 1. Revoking or suspending Registered Nurse License Number 512432, issued to Wilma
6 Chavez Polverari;

7 2. Ordering Wilma Chavez Polverari to pay the Board of Registered Nursing the
8 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
9 Professions Code section 125.3; and

10 3. Taking such other and further action as deemed necessary and proper.
11
12

13 DATED: APRIL 17, 2013

14 *for* 
15 LOUISE R. BAILEY, M.ED., RN
16 Executive Officer
17 Board of Registered Nursing
18 Department of Consumer Affairs
19 State of California
20 Complainant

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